

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JANE DOE, a minor, by her parents and next
friends, JOHN DOE and JILL DOE,

Plaintiff,

v.

Case No.: 24-CV-354

ELKHORN AREA SCHOOL DISTRICT and
JASON TADLOCK, in his individual capacity.

Defendants.

DEFENDANTS' MOTION TO ALLOW SUPPLEMENTAL BRIEFING

NOW COME the Defendants, Elkhorn Area School District (the “District”) and Jason Tadlock collectively (“Defendants”), by and through their attorneys, Stadler Sacks LLC, and hereby respectfully move the Court to allow the parties to submit ten pages of supplemental briefing to address the impact of *United States v. Skrmetti*, 145 S. Ct. 1816, 222 L.Ed.2d 136 (2025) on this case.

After the Supreme Court issued its decision in *Skrmetti*, the Seventh Circuit sua sponte vacated its June 12, 2025 opinion in *D.P. v. Mukwonago Area Sch. Dist.*, 140 F.4th 826 (7th Cir. 2025) and granted panel rehearing to consider whether the court should overrule *Whitaker v. Kenosha Unified School District No. 1 Board of Education*, 858 F.3d 1034 (7th Cir. 2017), and *A.C. v. Metropolitan School District of Martinsville*, 75 F.4th 760 (7th Cir. 2023), in light of *Skrmetti*. See [ECF 76-1]. Before the Seventh Circuit had the opportunity to address this issue, the plaintiff in *Mukwonago Area Sch. Dist.* moved to dismiss the appeal and the Seventh Circuit dismissed the appeal for lack of jurisdiction. See [ECF 77-1].

Defendants request that the Court permit the parties to provide supplemental briefing on the same issues that the Seventh Circuit requested from the parties in *Mukwonago Area Sch. Dist.*: (1) whether *Skrmetti* overrules *Whitaker* and *Martinsville*; and (2) whether, if the court overrules *Whitaker* and *Martinsville*, the challenged policy is valid under (a) the Equal Protection Clause in light of *Skrmetti*; and (b) Title IX in light of 20 U.S.C. § 1686, 34 C.F.R. § 106.33, and *Skrmetti*.

Counsel for Defendants conferred with counsel for Plaintiff who indicated that Plaintiff does not oppose this motion.

Dated this 3rd Day of September, 2025.

STADLER SACKS LLC
Attorneys for Defendants

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